

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Cheryl Ann Graf,

Civil No. 11-3362 (DWF/JJK)

Plaintiff,

v.

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

Michael J. Astrue, Commissioner of
Social Security,

Defendant.

This matter is before the Court upon Plaintiff Cheryl Ann Graf's ("Plaintiff") objections (Doc. No. 14) to Magistrate Judge Jeffrey J. Keyes's October 3, 2012 Report and Recommendation insofar as it recommends that: (1) Plaintiff's Motion for Summary Judgment be denied; (2) Defendant's Motion for Summary Judgment be granted; and (3) this case be dismissed with prejudice, and judgment be entered accordingly.

Defendant filed a response to Plaintiff's objections. (Doc. No. 15.)

The Court has conducted a *de novo* review of the record, including a review of the arguments and submissions of counsel, pursuant to 28 U.S.C. § 636(b)(1) and Local Rule 72.2(b). The factual background for the above-entitled matter is clearly and precisely set forth in the Report and Recommendation and is incorporated by reference for purposes of Plaintiff's objections.

Having carefully reviewed the record, the Court concludes that Plaintiff's objections offer no basis for departure from the Report and Recommendation. In particular, Plaintiff contends that the Magistrate Judge erred in upholding the ALJ's

rejection of Plaintiff's description of her pain symptoms and their effect on her daily activities and that the ALJ improperly discounted the consulting examiner's assessment. The Court concludes, however, that while this is a close case, the Magistrate Judge properly found that substantial evidence supported the ALJ's decision that Plaintiff was not disabled. Therefore, the Court adopts the Magistrate Judge's Report and Recommendation.

Based upon the *de novo* review of the record and all of the arguments and submissions of the parties, and the Court being otherwise duly advised in the premises, the Court hereby enters the following:

ORDER

1. Plaintiff Cheryl Ann Graf's objections (Doc. No. [14]) to Magistrate Judge Jeffrey J. Keyes's October 3, 2012 Report and Recommendation are **OVERRULED**.

2. Magistrate Judge Jeffrey J. Keyes's October 3, 2012 Report and Recommendation (Doc. No. [12]) is **ADOPTED**.

3. Plaintiff's Motion for Summary Judgment (Doc. No. [8]) is **DENIED**.

4. Defendant's Motion for Summary Judgment (Doc. No. [10]) is **GRANTED**.

5. This case is **DISMISSED WITH PREJUDICE**.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: January 15, 2013

s/Donovan W. Frank
DONOVAN W. FRANK
United States District Judge